

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

---

No. 00-1219

---

Thomas Berkner,

Appellant,

v.

Ford Motor Company,

Appellee.

\*  
\*  
\*  
\* Appeal from the United States  
\* District Court for the  
\* District of Minnesota.  
\*  
\* [UNPUBLISHED]  
\*

---

Submitted: January 5, 2001

Filed: January 22, 2001

---

Before RICHARD S. ARNOLD, HANSEN, and BYE, Circuit Judges.

---

PER CURIAM.

Thomas Berkner appeals the district court's<sup>1</sup> Federal Rule of Civil Procedure 37 (b)(2)(C) dismissal with prejudice of his civil action against Ford Motor Company. Having closely scrutinized the district court's decision to dismiss Berkner's lawsuit based on his lack of cooperation in the discovery process, culminating in his failure to comply with its order compelling discovery, we conclude that the court did not abuse

---

<sup>1</sup>The Honorable Paul A. Magnuson, Chief Judge, United States District Court for the District of Minnesota, adopting the report and recommendations of the Honorable Jonathan G. Lebedoff, United States Magistrate Judge for the District of Minnesota.

its discretion. See Schoffstall v. Henderson, 223 F.3d 818, 823 (8th Cir. 2000) (standard of review; district court may dismiss action as sanction for failing to comply with discovery orders if there is order compelling discovery, it is willfully violated, and there is prejudice to other party). We also find no abuse of discretion in the district court's award of attorney's fees to appellee. See Comiskey v. JFTJ Corp., 989 F.2d 1007, 1012 (8th Cir. 1993) (Rule 37 authorizes award encompassing all expenses, whenever incurred, that would not have been sustained had party conducted itself properly). To the extent Berkner is requesting an in camera hearing, we deny his request.

Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.